

Serial No. 10/808,618

Docket No. XW-672 (NAN.P0672)

Response to Notice of Non-Compliant Amendment 06/14/2006

**REMARKS****NON-COMPLIANT AMENDMENT**

Applicants hereby reply to the Notice of Non-Compliant Amendment for the Substitute Preliminary Amendment filed on June 14, 2006.

It appears that the Preliminary Amendment, which was deposited by previous counsel on April 8, 2004, was intended to correct typographical errors to the numbering of the claims. In the original specification, claim numbers 42-45 were repeated within the claim set.

Applicants sent a Substitute Preliminary Amendment on May 8, 2006 which retained a substantial number of the original claims as filed, replacing those four claims which duplicated the claim numbers. Claims 13 and 14, which were duplicative of claims 10 and 11, were also canceled.

Applicants wish to express their appreciation for the courtesies extended by the Examiner to Applicants' representative in the telephone interview on June 30, 2006. As a result of that interview, Applicants understand that the status of the claims prior to receipt by the Patent Office of the Substitute Preliminary Amendment, was deemed to be defined by the Preliminary Amendment deposited on April 8, 2004, despite the presence of the duplicative numbering.

In order to resolve the current state of non-compliance and prevent future confusion, the present amendment cancels all claims subsequent to claim 41, where the duplicative numbering first appeared, and presents a set of new replacement claims beginning with claim 99, containing the same subject matter as the cancelled claims.

The amendment has not changed the scope of the claims, only their numbering. No additional claims fees are necessary because the original filing receipt

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reflects payment for 98 total claims and this Amendment contains 96 total pending claims. There has been no change in the number of independent claims.

### ELECTION OF SPECIES

In response to the requirement for the election of species of one of the third distinct atoms claimed in claim 9, Applicant elected, by the Substitute Preliminary Amendment sent on May 8, 2006, the species Nitrogen: claims 1-19, 26-30, and 37-52, as stated in the Office Action. It should be noted that the claim numbers referred to in the Office Action were those renumbered by the Preliminary Amendment deposited on April 8, 2004. The present amendment has changed the claims numbers which pertain to the "Nitrogen Species". Applicants submit that the "Nitrogen Species" claims therefore include at least the claims presently numbered 1-12, 13-19, 26-30, 37-41, 99-105, and 152-155. Applicants further submit that the "Nitrogen Species" claims should further include at least the claims presently numbered 31-36, depending from generic claim 10 and not being otherwise addressed in the election requirement.

### ELECTION OF COMPOSITIONAL SPECIES

In response to the requirement for an additional election from the twenty-two *compositional species* listed in the Office Action, Applicants provisionally elected, by the Substitute Preliminary Amendment sent on May 8, 2006, the compositional species listed in the Office Action, as:

9) Nanoparticles disposed within a polymeric carrier: claims 68-71 and 73-75. It should be noted that the claim numbers referred to in the Office Action were those renumbered by the Preliminary Amendment deposited on April 8, 2004. The present amendment has changed the claims numbers which pertain to these Compositional species. Applicants submit that the Compositional species group 9 therefore includes at least the claims presently numbered 121-124 and 126-128.

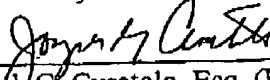
Serial No. 10/808,618

Docket No. XW-672 (NAN.P0672)

Response to Notice of Non-Compliant Amendment 06/14/2006

Should the Examiner have any questions about the above amendments or remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

  
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7-10-2006  
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Date